

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Application No. 1749 of 2024
With
Criminal Application No.1690 of 2024
With
Criminal Application No.1694 of 2024
With
Criminal Application No.1742 of 2024
With
Criminal Application No.1745 of 2024
With
Criminal Application No.1744 of 2024
With
Criminal Application No.1748 of 2024
With
Criminal Application No.1838 of 2024
With
Criminal Application No.1839 of 2024
With
Criminal Application No.1841 of 2024
With
Criminal Application No.1840 of 2024

Jagmohan Garg ... Applicant
V/s.
National Spot Exchange Ltd. & anr. ... Respondents.

Alongwith
Criminal Application No.501 of 2024

Kamal Kant Dewan ... Applicant
v/s.
National Spot Exchange Ltd. & anr. ... Respondents.

Alongwith

Criminal Application No. 1743 of 2024
With
Criminal Application No.1750 of 2024
With
Criminal Application No.1746 of 2024
With
Criminal Application No.1756 of 2024
With
Criminal Application No.1757 of 2024
With
Criminal Application No.1758 of 2024
With
Criminal Application No.1754 of 2024
With
Criminal Application No.1885 of 2024
With
Criminal Application No.1883 of 2024
With
Criminal Application No.1886 of 2024
With
Criminal Application No.1882 of 2024

Jai Shankar ShrivastavaApplicant
v/s.
National Spot Exchange Ltd. & anr.Respondents

Alongwith
Writ Petition No.2228 of 2025
And
Writ Petition No.2229 of 2025

Prashant BooruguPetitioner
v/s.
National Spot Exchange Ltd.Respondents

Alongwith
Writ Petition No. 6264 of 2024

Lotus Refineries Pvt. Ltd,
through Managing Director
v/s.

....Petitioner

State of Maharashtra and arn.

....Respondents

Mr. Vinay Bhanushali a/w. Advocate Abhirag Rao	Advocates for the Applicants.
Adv. Rishi Bhuta a/w Adv. Dilip Shukla a/w Adv. Vaishnavi Javheri a/w Adv. Ankita Bamboli	Advocate for the Petitioner in WP No.6264/24.
Mr. Arvind Lakhawat a/w. Mr. Nimeet Sharma a/w. Adv. Jalpa Shah a/w Adv. Himani Narula a/w Adv. Vinit Vaidya i/b. MZM Legal LLP	Advocates for Respondent No. 1 - NSEL in all the matters.
Mr. Anuj Jhaveri, Ms. Aakanksha Nehra (through v.c.) a/w. Mihir Modi i/b. Mihir Modi	Advocates for the Petitioners in WP No.2228/25 and 2229/25.
Ms. Gauri S. Rao	APP for State

CORAM : S. M. MODAK, J.

DATE : 21st AUGUST 2025

P. C. :-

1. Heard remaining arguments of learned Advocate Shri Lakhawat for the Respondent. He made the following submissions:-

- (i) According to him the observations in the judgment relied upon by learned Advocate Shri Bhuta may not be applicable. He relied upon the following

judgments:-

- (a) *Kamleshkumar Ishwardas Patel Vs. Union of India and Ors.*¹

Wherein view taken by the Division bench of this Court is overruled.

- (b) On the point how the judgment giving a different view is to be interpreted, he relied upon the observations in case of *Raman Gopi and Anr. Vs. Kunju Raman Uthaman*², para no. 77.

- (c) The observations in case of *Union of India Vs. Simplex Infrastructures Limited*³, para no. 11.

2. He differentiated the judgments relied upon by learned Advocate Mr. Bhuta. Additionally, he relied upon the observations by the Committee appointed by the Hon'ble Supreme Court in its order dated 16.07.2025 in Writ Petition (C) No. 995 of 2019. The said order was passed in execution filed by *National Spot Exchange Limited Vs. Lotus Refineries Pvt. Ltd. And Arun Sharma and Others*, who is one of the Petitioner in Writ Petition No. 6264 of 2024.

1 MANU/SC/0732/1995

2 2011 SCC Online Ker 4028

3 (2017) 14 SCC 225

3. According to him, the provisions of Section 238 of the Criminal Procedure Code will not be applicable because the word ‘instrument’ used in that section was used in different context and not used in context of cheque as per Negotiable Instruments Act. To buttress his submission, he relied upon the certain provisions of the Insolvency and Bankruptcy Code, 2016. They are as follows:-

- (i) Section 3 Clause 15
- (ii) Section 5(8) (c) and h
- (iii) Section 35 (1)(m)
- (iv) Section 151 (f)
- (v) Section 239 (2)(a)
- (vi) Section 243 (1)(ii)

4. With these submissions, he has closed his arguments.

5. Stand over to **11th September 2025** for rejoinder on behalf of the learned Advocate for the Petitioners.

6. Ad-interim relief in all these petitions to continue till the next date.

[S. M. MODAK, J.]